

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ALANA KARPOFF SCHWARTZ,
Individually and on behalf of a class,

Plaintiff,

v.

INTIMACY IN NEW YORK, LLC;
INTIMACY, MANAGEMENT
COMPANY, LLC,

Defendants.

13-cv-5735 (PGG)

**DECLARATION OF JENNIFER M. KEOUGH REGARDING NOTICE AND
SETTLEMENT ADMINISTRATION**

I, JENNIFER M. KEOUGH, declare as follows:

1. I am Chief Operating Officer of Garden City Group, LLC (“GCG”).¹ The following statements are based on my personal knowledge and information provided by other experienced GCG employees working under my supervision, and, if called on to do so, I could and would testify competently thereto.

2. GCG is a recognized leader in legal administration services for class action settlements, bankruptcy cases, and legal noticing programs. In its history of over 30 years, our team has served as administrator for over 3,000 cases. GCG has mailed over 290 million notices, disseminated over 800 million emails, handled over 31 million phone calls, processed over 50 million claims, and distributed over \$37 billion in benefits.

¹ Please note that The Garden City Group, Inc. is now Garden City Group, LLC.

3. GCG was appointed as the Administrator pursuant to Paragraph 6(e) the Order Granting Unopposed Motion for (1) Conditional Class Certification; (2) Appointment of Class Representative; (3) Appointment of Class Counsel; (4) Preliminary Approval of Class Action Settlement and Notice to Class; and (5) Setting of Final Approval Hearing (“Preliminary Approval Order”) issued by the Court on April 17, 2015.²

4. Under the terms of the Settlement Agreement, GCG’s duties are as follows: provide notice to the Class, maintain a process for submission of claims of Class Members, process returned and/or undeliverable mail, process claim forms, respond to Class Member inquiries, deal with disputes from Class Members, create and maintain a website for the Class, distribute class compensation to Class Members, prepare and disseminate reports to Class Counsel about administrative issues and post-distribution settlement administration and related activities.

5. I submit this Declaration in order to advise the Parties and the Court as to the status of dissemination of the Class Notice pursuant to the Notice program, Class Member communications, and GCG’s other claims administration duties pursuant to the Settlement Agreement and in accordance with the Court’s Preliminary Approval Order.

DATA

6. GCG was provided with a list of Class Members from Defendants’ Counsel on April 17, 2015. The list contained 79,389 records with name and address information for Class Members. Of the 79,389 records, 4,987 records contained no mailing address or email address information. An additional 1,808 records contained no email address and a partial address that was insufficient for mailing. 72,594 records contained an email address and/or a mailing address. On April 28, 2015, GCG updated mailing addresses of Settlement Class Members using the

² Unless otherwise defined herein, all capitalized terms shall have the same meaning as set forth in the Agreement of Settlement (“Settlement Agreement”).

National Change of Address database (“NCOA”).³ The NCOA resulted in 9,673 mailing address updates.

7. Pursuant to Section VII.5 of the Settlement Agreement and Paragraph 19 of the Preliminary Approval Order, on April 29, 2015, GCG conducted an advanced address search on all records that did not have address information. The advanced address search was performed on 9,635 records and resulted in zero address updates.

DIRECT NOTICE

8. Pursuant to Section VI.3(a) of the Settlement Agreement and Paragraph 6(a) of the Preliminary Approval Order, GCG caused individual Notice to be mailed and/or emailed to 72,594 Settlement Class Members on May 4, 2015.

9. GCG provided individual E-mail Notice to those Settlement Class Members for whom Defendants were able to provide an email address. GCG identified 50,521 potentially valid email addresses and issued E-mail Notice to those email addresses on May 4, 2015. A copy of the E-mail Notice is attached hereto as Exhibit A. Of the 50,521 emails sent to Settlement Class Members, 6,628 emails were initially returned to GCG as undeliverable. GCG reviewed all undeliverable email addresses and was able to correct discrepancies in 244 email addresses. Ultimately, 6,384 emails were returned to GCG as undeliverable. Of the 6,384 records resulting in undeliverable emails, 6,025 records contained a mailing address. 5,686 records with undeliverable emails received Direct Mail Notice. Ultimately, only 698 records with undeliverable email addresses did not receive Mail Notice.

10. GCG mailed Direct Notice to all Class Members for whom Defendants were able to provide a mailing address. GCG mailed the Mail Notice to 69,754 Settlement Class Members on May 4, 2015. As of the date of this Declaration, GCG has received 193 Mail Notices returned by the U.S. Postal Service with forwarding address information. Mail Notices returned by the

³ The NCOA database is the official United States Postal Service database product, which makes changes of address information available to mailers to help reduce undeliverable mail pieces before mail enters the mailstream. This product is an effective tool to update address changes when a person has completed a change of address form at the Post Office. The address information is maintained on the database for 48 months.

U.S. Postal Service with forwarding address information were promptly re-mailed to the updated addresses provided.

11. As of the date of this Declaration, the Mail Notices for 3,974 Class Members have been returned to GCG by the U.S. Postal Service without forwarding address information. Of the 3,974 records with undeliverable Mail Notices, 2,167 records received E-mail Notice. Of the 69,754 Notices mailed to Class Members, only 1,807 were ultimately undeliverable.

12. In total, 70,089 Class Members were sent Mail and/or E-mail Notice that was subsequently not returned to GCG. Based on this information, over 88% of the Class received mailed or e-mailed notice.

PUBLICATION NOTICE

13. Pursuant to Paragraph 6(b) of the Preliminary Approval Order, Notice of the proposed Settlement Agreement was published on two consecutive Saturdays as a 1/8 page advertisement in newspapers in each of the impacted markets. The Publication Notice appeared in the following publications on the following dates:

Publication	Daily Circulation	Publication Dates
<i>New York Times</i>	689,165	May 2, 2015/May 9, 2015
<i>Newark Star-Ledger</i>	284,020	May 2, 2015/May 9, 2015
<i>Atlanta Journal Constitution</i>	221,756	May 2, 2015/May 9, 2015
<i>Chicago Tribune</i>	438,935	May 2, 2015/May 9, 2015
<i>Los Angeles Times</i>	628,910	May 2, 2015/May 9, 2015
<i>Boston Globe</i>	252,311	May 2, 2015/May 9, 2015
<i>Houston Chronicle</i>	307,806	May 2, 2015/May 9, 2015
<i>Miami Herald</i>	118,193	May 2, 2015/May 9, 2015
<i>Orange County Register</i>	164,691	May 2, 2015/May 9, 2015

<i>Philadelphia Inquirer/Daily News</i> ⁴	278,723	May 2, 2015/May 9, 2015
<i>San Diego Union-Tribune</i>	214,585	May 2, 2015/May 9, 2015
<i>Arizona Republic</i>	217,231	May 2, 2015/May 9, 2015
<i>Washington Post</i>	401,360	May 2, 2015/May 9, 2015
Totals	4,217,686	

14. A copy of the Publication Notice as it appeared in each publication and confirmation of such publication is attached hereto as Exhibit B.

SETTLEMENT WEBSITE

15. Pursuant to Paragraph 6(c) of the Preliminary Approval Order, GCG established and maintains a website for the Settlement, www.IntimacyFACTASettlement.com, to provide information and important deadlines to Class Members, as well as answer frequently asked questions. Users of the Settlement website can review the Complaint, Amended Complaint, Motion for Preliminary Approval, Preliminary Approval Order, and the Settlement Agreement. Class Members could also download a personalized Claim Form from the website. The Settlement website has been operational since April 24, 2015, and is accessible 24 hours a day, seven days a week. As of the date of this Declaration, the Settlement website has received 3,612 visits.

TOLL-FREE TELEPHONE NUMBER

16. On April 24, 2015, in order to accommodate inquiries regarding the Settlement, GCG made operational a telephone number, 1-877-940-1503, with an Interactive Voice Response (“IVR”) system. Callers have the ability to listen to important information about the Settlement and to request a copy of the Notice Packet and Claim Form 24 hours a day, seven days a week. If callers have additional questions, they also have the ability to speak to a

⁴ The Publication Notice in the *Daily News* was published on May 1, 2015 and May 8, 2015. The Publication Notice was also published in the *Philadelphia Inquirer* on May 2, 2015 and May 9, 2015.

customer representative Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m. Eastern Time. GCG will continue to maintain and update the IVR throughout the administration of the Settlement.

CLAIMS

17. According to Section IV.2 of the Settlement Agreement, Class Members identified in the Defendants' data who did not request exclusion from the Settlement were not required to file a claim form in order to receive benefit from the Settlement and be bound by its terms. Pursuant to Section VII of the Settlement Agreement, potential Class Members for whom Defendants did not maintain contact data were required to submit a completed Claim Form postmarked by July 8, 2015 to participate in the Settlement. As of the date of this Declaration, GCG received a total of 290 timely claims. 146 of the timely claims received were submitted by individuals whose names and contact information were included in the Class Member data provided to GCG and who received Direct Notice by mail or email. Eight of the timely claims received were submitted by individuals whose names were in the Class Member data provided to GCG, but who did not receive Direct Notice by mail or email because contact information was unavailable or the Notices sent to those individuals were returned to GCG as undeliverable. 136 of the timely claims received were submitted by individuals whose names or contact information were not in the Class Member data provided to GCG.

18. To make a claim, Potential Class Members were required to complete the approved Claim Form, providing the following information:

- Contact information;
- Location of the store from which the purchase was made;
- Method of payment;
- Last four digits of the credit card used; and/or
- Expiration date of the credit card used; and/or
- Price of the purchase.
- Date of the purchase.

Potential Class Members had the option of submitting this information by completing the Claim Form included in the Notice Packet and returning it to the Administrator via U.S. mail. Class Members could also download a personalized Claim Form from the Settlement website to return to the Administrator.

19. Class Members were not required to submit supporting documentation with the Claim Form. Amongst the timely claims, 16 claims were submitted with supporting documentation.

20. As of the date of this Declaration, GCG has received three late claims. One late claim was submitted by an individual whose name and contact information was included in the Class Member data provided to GCG and who received Direct Notice by email. Two of the late claims received were submitted by individuals whose names or contact information were not in the Class Member data provided to GCG.

EXCLUSIONS

21. Pursuant to Paragraph 9 of the Preliminary Approval Order, Class Members who wish to exclude themselves from the Settlement were required to submit a written Request for Exclusion, postmarked by July 6, 2015, to the Administrator. As of the date of this Declaration, GCG has received 19 timely exclusion requests and zero late exclusion requests from the Settlement. The attached Exhibit C reports on the Class Members who submitted exclusion requests.

OBJECTIONS

22. Pursuant to Paragraph 13 of the Preliminary Approval Order, Class Members who did not exclude themselves may object to the Settlement. In order to contest the approval of the Settlement Agreement, a Class Member must serve a written objection to Class Counsel and counsel for Settling Defendants and file with the Court no later than July 29, 2015. As of the date of this Declaration, GCG has received one Class Member objection.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 20th day of July, 2015 in Seattle, Washington.



Jennifer M. Keough